

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION**

**KENESHA BARNES, ON BEHALF
OF THE ESTATE OF SHERRIE
BARNES,**

PLAINTIFF,

VS.

CIVIL ACTION NO. 3:03CV60-P-D

**KOPPERS, INC., F/K/A KOPPERS
INDUSTRIES, INC.; BEAZER EAST, INC;
ILLINOIS CENTRAL RAILROAD
COMPANY,**

DEFENDANTS.

ORDER

This matter comes before the court *sua sponte* in connection with a telephonic conference held among the court and counsel for all parties on April 11, 2006 regarding allocation of trial time. Upon due consideration of same, the court finds as follows, to-wit:

As the undersigned has made clear for some time, the parties have been allocated three weeks for trial of this matter – *i.e.*, from 8:30 a.m. on Monday, April 17 to Friday evening on May 5, 2006. The court has informed the parties on several occasions that the undersigned is scheduled to attend a long-standing commitment in Washington, D.C. effective Saturday, May 6, 2006. Having considered the realities of this case, the court has concluded that it is entirely within the realm of the parties' Due Process rights to expect this matter to be tried within the allotted timeframe.

On a prior occasion, the court suggested that the parties agree among themselves how to allocate their time. They were unable to do so. Therefore, during the telephonic conference mentioned above, the court allocated trial time as follows, keeping in mind that the plaintiff bears the burden of proof:

Monday, April 17 - voir dire, jury selection, and opening statements; in the event opening statements are completed at around 3:00 p.m., the plaintiff will commence her case at that time.

Tuesday, April 18 to noon on Wednesday, April 26 - plaintiff's case-in-chief (6.5 days)

Wednesday, April 26 afternoon to noon Monday, May 1 - Koppers/Beazer East's case (3 days)

Monday, May 1 afternoon to noon on Wednesday, May 3 - Illinois Central's case (2 days)

Wednesday afternoon May 3 - plaintiff's rebuttal (plaintiff's counsel indicated that he wanted to use half of his one-day rebuttal for his case-in-chief)

Thursday, May 4 - Jury instructions and charge, closing arguments

Friday, May 5 - Jury deliberations

In the event one party needs less time for their case, the remaining time may be allocated to another party upon agreement.

IT IS THEREFORE ORDERED AND ADJUDGED that the parties' trial time will be allocated as outlined above.

SO ORDERED this the 12th day of April, A.D., 2006.

/s/ W. Allen Pepper, Jr.
W. ALLEN PEPPER, JR.
UNITED STATES DISTRICT JUDGE